IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.196 OF 2005

Santosh Ramsingh ...Applicant

Versus

The State of Maharashtra ...Respondent

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Ms.Sheetal Shah i/b Mehta & Girdharlal for Applicant.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

JANUARY 27, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. Insofar as the Applicant is concerned, there is evidence to indicate his complicity in the commission of the crime. It is seen that he suffered injury while fleeing from the scene of offence along with the bag containing cash, but due to injuries suffered, became unconscious and was

accosted on the spot along with the bag containing cash. This is a strong circumstance. The fact that expert opinion does not establish that the finger prints which were sent for examination match with the finger prints of the Applicant, will not militate against the prosecution at this stage. Moreover, no identification parade was held, also cannot be the basis to release the Applicant on bail, when the Applicant was arrested on the spot and accosted by the prosecution witnesses on the scene of offence. The description of the Applicant has been given in the First Information Report and as mentioned earlier, the Applicant being arrested on the spot is a strong circumstance. Hence, not a case for bail, having regard to the seriousness of the offence. In the circumstances, I find no reason to depart from the conclusion reached by the Court below in rejecting the bail application preferred by the present Applicant. Hence, dismissed.

3. Counsel for the Applicant, however, contends that no purpose would be served by keeping the Applicant in jail as the investigation is

already completed and charge-sheet is filed. Reliance is placed on the decision of the Apex Court in the case of **Ashok Dhingra v. N.C.T. of Delhi reported in AIR 2000 SC 3537 (1)**. In that case, the offence was one under Section 120-B, 420, 468, 471 and 506 of the Indian Penal Code, whereas, in the present case, the offence is one under Section 450, 452, 395, 397, 201, 202 read with Section 34 of the Indian Penal Code and Section 3(25) of the Indian Arms Act. In this backdrop, the reliance placed on the decision of the Apex Court, will be of no avail. Hence, dismissed.

4. While parting, I wish to place on record the manner in which assistance is offered on behalf of the State, that too, at the High Court level. The Investigating Officer who is personally present in Court was not in a position to state as to what weapon was used in the commission of the offence. In fact, I was given to understand that no weapon was used, which is contrary to the record. The First Information Report clearly mentions that group of six persons marched into the office of the complainant with weapon and snatched away cash at

the point of the revolver. This only indicates that the Investigating Officer had no time to look into the papers before he came to assist the Assistant Public Prosecutor; nor the Assistant Public Prosecutor has taken effective measures in ensuring that the proper assistance is rendered to the Court.

5. Copy of this order be forwarded to the Secretary, Law Department and Principal Secretary, Home Department, for information and to take such action as may be advised in the matter.

A.M.KHANWILKAR, J.